

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 174 OF 2007
IN
CRIMINAL APPEAL NO. 137 OF 2007**

Narayan Aba Pawar & anr. ... Applicants

V/s

The State of Maharashtra ... Respondent

Mr. K.S. Patil for the applicants.

Mr. P.A. Pol, A.P.P. for the respondent State.

**CORAM: D. G. DESHPANDE &
SMT. NISHITA MHATRE, JJ.**

DATED: 10TH APRIL, 2007.

P.C.:

1. This application for bail is filed by the original accused Nos. 1, 2 & 3. However, the bail application by accused No.3 is not pressed. Arguments are advanced only in respect of accused Nos. 1 and 2.

2. The main contention of the advocate for the advocate for the accused is that accused Nos. 1 and 2 have also received injuries, viz. (1) Ecchymosis on left infra scapular region on 9.3 horizontal measuring 10 cm. 1 cm. reddish colour and suspected fracture of 9th rib.;

(2) C.L.W. lateral aspect right eye 5 m.m. x 3 cm. oblique skin deep blood clot present; (3) swelling over lateral aspect of, lateral supra malleolar region, tenderness present, crepitula. Suspected fracture lower end of left fibula; (4) swelling right four foot tenderness on 4th and 5th meta-tersal right side. Tenderness present. Suspected fracture of 4th and 5th metatarsal bones right side.

3. He also drew our attention to the injuries suffered by the deceased, viz. (1) swelling over left elbow 5 c.m. x 3 cm. Tenderness present. Quarry fracture elbow; and (2) Swelling left fore-arm laterally 2 c.m. x 2 cm. Tenderness was present. Therefore, he has contended that the injury of the deceased was minor in nature, though unfortunately he succumbed to the injuries.

4. The fact that both the accused who are about 64 and 59 years old respectively at present, also suffered injuries on their vital parts of the body. This would be a strong circumstance to indicate that it is a case of exercise of the right of self defence. May be that such a defence is not specifically taken during the trial. He also states that accused Nos. 1 and 2 were on bail all throughout during the trial. There are no

criminal antecedent and, therefore, in such circumstances, the application is required to be allowed.

4. The advocate for the accused also states that there were cross cases against the other side on the report of the present accused, however, they were acquitted.

5. Hence, the following order is passed:

O R D E R

(i) The substantive sentences of the original accused Nos. 1 and 2 are suspended pending appeal.

(ii) The original accused Nos. 1 and 2 be released on furnishing bail bonds of Rs.10,000/- with one surety each to the satisfaction of the Trial Court.

(iii) Attendance of the accused once in three months before the concerned police station till the appeal is disposed of.

6. Criminal application disposed of accordingly.

(D.G. DESHPANDE, J.)

(SMT. NISHITA MHATRE, J.)